Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 153

ELEANOR TAFT TILTON, MILDRED H. CLARK, CAROL D. GOLDSTONE, THEODORE GURNEY, HARVEY L. RAISNER, ELISABETH R. SWAIN, WYMAN W. PARKER, PAUL A. REYNOLDS, RUFUS BLANSHARD, JAY S. ROTH, CARL W. SCHAEFER, NORMAN T. DAVID, HERBERT T. GOLDSTONE, JAMES W. GARDNER, JR., CHARLES L. PENDLETON,

Appellants,

—v.—

ELLIOT L. RICHARDSON, Secretary of the United States Department of Health, Education and Welfare, JAMES E. ALLEN, JR., Commissioner of Education of the United States, MARVIN K. PETERSON, Chairman of the Commission on Aid to Higher Education of the State of Connecticut, SACRED HEART UNIVERSITY, ANNHURST COLLEGE, FAIRFIELD UNIVERSITY, ALBERTUS MAGNUS COLLEGE,

Appellees.

ON APPEAL FROM A THREE-JUDGE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

REPLY BRIEF FOR APPELLANTS

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Eleanor Taft Tilton, Mildred H. Clark, Carol D. Goldstone, Theodore Gurney, Harvey L. Raisner, Elisabeth R. Swain, Wyman W. Parker, Paul A. Reynolds, Rufus Blanshard, Jay S. Roth, Carl W. Schaefer, Norman T. David, Herbert T. Goldstone, James W. Gardner, Jr., Charles L. Pendleton,

Appellants,

—v.—

Elliot L. Richardson, Secretary of the United States Department of Health, Education and Welfare, James E. Allen, Jr., Commissioner of Education of the United States, Marvin K. Peterson, Chairman of the Commission on Aid to Higher Education of the State of Connecticut, Sacred Heart University, Annhurst College, Fairfield University, Albertus Magnus College,

Appellees.

ON APPEAL FROM A THREE-JUDGE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT

REPLY BRIEF FOR APPELLANTS

1. The Questions Presented

Rule 40(h)(3) of this Court authorizes appellees to rephrase "the questions presented" if they are dissatisfied with the appellant's version. It was, however, not contem-

plated thereby that the rephrased question would be one the answer to which all sides agree. The Government's Brief (p. 2) states that the questions presented herein are whether the challenged statute "authorizes construction grants to church-related colleges and universities that are eligible to receive them," and if so, whether the inclusion of "church-related colleges and universities" violates the Constitution.

The Brief of the Appellee Colleges (p. 2) is even more precise in formulating the "questions presented." It asks whether institutions can be excluded "solely" because they are "church-related."

If these were the questions presented by this appeal, there would be no appeal. Throughout the proceedings in the court below and in our Brief to this Court (p. 9 and *passim*), we sought, apparently unsuccessfully, to make clear that we do not now nor have we ever contended that mere church-relationship disqualifies an institution either statutorily or constitutionally from receipt of governmental funds. Nor did the District Court hold only that church-relationship itself is not sufficient to disqualify colleges from the benefits of the statute. It went far beyond that and held that any religious institution (other than a divinity school) is eligible no matter what role religion plays in its control, purpose or operations. It is from this *carte blanche* that we appeal.

2. Church-Relationship and Sectarianism

We have used the term "sectarian" to designate the educational institutions we believe to be statutorily and constitutionally disqualified. We used that term to indicate one in which "the propagation, teaching or practice of religion is a meaningful and major part of its existence." Had we commenced this suit before the Court's decision in *Walz* v. *Tax Commission,* 397 U.S. 664 (1970) we might have used the definition in that case, i.e., one whose "dominant policy" is "to assure future adherents to a particular faith by having control of their total education at an early age." (90 S. Ct. at 1412-1413)

We used the term "sectarian" because it is the one most commonly used in constitutions, statutes and judicial decisions in the context involved in the present case. Of the fifty state constitutions in the Union, no less than 33 use the term "sectarian" in provisions barring financing of such educational institutions. Others use the term "religious" or "denominational."[1] None uses the term "church-related." Even the statute here in issue uses the word "sectarian" (20 U.S.C. 751(a)(2)), but not "church-related." There are many court decisions defining "sectarian"; most relevant here are *Horace Mann League* v. *Board of Public Works,* 242 Md. 645 (1966) and *State ex rel. Warren* v. *Reuter,* 170 N.W.2d 790 (1969). We have not found any defining "church-related."

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[1] The constitutional provisions are collated in the U.S. Department of Health, Education and Welfare, Office of Education, *The State and Nonpublic Schools* (1958).

In view of these facts we considered it quite reasonable to use the word "sectarian" to designate the type of educational institution we deem statutorily and constitutionally ineligible to receive governmental funds.

3. The Profile of a Sectarian College

In our initial Brief (pp. 10-11) we set forth as a "composite description of a sectarian educational institution" one "which admits only students of a particular religion, requires them to participate in religious activities, compels them to comply with the doctrines and dogmas of the religion, forces them to attend church, requires them under penalty of dismissal to take instruction in the theology and doctrines of the religion, and does everything to propagate and advance a particular religion other than confer degrees in divinity * * *."

We stated (*ibid.*) that "We do not contend that any of the four institutional defendants herein fit the above composite description of a sectarian educational institution." We did not make the contention first, because the District Court had made no findings of fact one way or the other on the nature of the institutions, and secondly because the Court had adopted the Government's position that even if the defendant institutions did fit the composite description they would still be eligible to receive governmental funds and therefore refused to enjoin the Government from so applying the statute.

Nevertheless, the defendant colleges vigorously denied that any of them fit the composite description, and have included as an appendix to their Brief the proposed findings of fact submitted by them to the District Court setting forth their description of themselves as they contend it is.

It is difficult for us to appreciate the probative value of proposed findings of fact upon which the trial court did not act. But to make our own position clear, we state that while we do not contend that any of the defendant colleges now fit the composite description we have set forth, neither do we concede that none of them substantially fitted the description when the grants to them were approved by the Government. On the contrary, we believe that the District Court could well have found on the basis of the evidence before it that one or more of the defendant colleges did fit the description at that time.

One of the most strongly contested issues before the District Court was whether the eligibility of an institution should be determined by its character at the time the grant to it was approved by the Department of Health, Education and Welfare or at a later time. The plaintiffs took the position that since the suit was basically for an injunction and declaratory judgment in respect to the nationwide application of the statute, the critical date was the one on which the challenged grants were approved by the Department. The college defendants, on the other hand, contended that changes in the character of the beneficiary institutions which occurred up to the trial, and indeed even those which had not yet taken place but were planned or contemplated (see Appellee Colleges Brief, p. 4a footnote 10) must be considered in determining eligibility. For that reason much, perhaps most of the evidence and witnesses presented by the colleges related to the situation as it existed at the time of trial rather than at the time the grants to them were approved.

In view of the position taken by the District Court, i.e., that the character of the institution is immaterial in deter-

mining eligibility, the contested legal question was not decided. Although the plaintiffs throughout the trial maintained a continuous objection to all post-approval evidence, the proposed findings of fact submitted by the colleges and incorporated in their Brief herein makes no distinction between pre- and post-approval evidence.

At the conclusion of the trial, the plaintiffs in their post-trial memorandum presented to the District Court a profile of each of the defendant colleges based upon evidence and testimony submitted at the trial. In view of the District Court's decision—a functional equivalent of sustaining a demurrer—these factual profiles must be taken to be true, and hence are far more appropriate for consideration by this Court than the unacted-upon proposed findings of fact submitted by the defendant colleges. Accordingly, for the convenience of this Court, we are submitting as an appendix to this Brief, the profiles of each of the defendant colleges as we submitted them to the District Court. We do this without conceding in the slightest that if the character of the defendant colleges were and are as indicated by their proposed findings of fact they would be either statutorily or constitutionally eligible for grants under the Act.

4. The Test of Time

In our initial Brief (p. 48) we stated that "From the disestablishment of churches at the end of the 18th and the beginning of the 19th centuries until the enactment of the statute challenged herein neither the Federal government nor any state has directly subsidized the construction or operations of *sectarian* educational institutions." (Emphasis added.) The Government, in its Brief (p. 25, foot-

note 15), citing this part of our Brief, states that we "contend that aid to *church-related* colleges, in contrast to tax-exemptions is not an historical tradition but an innovation." (Emphasis added.) The Government's Brief then indicates that we are mistaken because "Congress has permitted *church-related* institutions to participate in general aid programs to colleges and their students for more than a century, beginning with the Morrill Act which established land-grant colleges. 109 Cong. Rec. 19382-19383." (Emphasis added.)

In view of the position we have taken throughout this litigation, our taking exception to this substitution of "church-related" for our "sectarian" can hardly be deemed semantic quibbling. On the contrary a mere glance at the institutions listed in the city authority for the Government's assertion (109 Cong. Rec. 19382-19383) supports our position and shows that not one of them is now or at the time it received Morrill Act benefits was a *sectarian* educational institution, and that many if not most of them could be deemed to have been church-related only by the most liberal interpretation of that term. The following is the complete list of the institutions named in the *Congressional Record*:

Brown University
Yale University
Rutgers University
Dartmouth University
University of Kentucky
University of Delaware
Atlanta University
Maryland State College
Auburn University
Kansas State University
University of California

We respectfully refer the Court to the two cited pages of the *Congressional Record* which set forth after each institution a short explanatory statement indicating its church-relatedness. For the Court's convenience we quote one which we believe to be typical.

> Kansas State University: Methodist Church gave Bluemont Central College to State as site for new agricultural college which was to receive land-grant funds. This "Kansas State Agricultural College" became the State University. (109 Cong. Rec. 19383)

If this comment indicates anything it is a recognition that Bluemont Central College could *not* receive land-grant funds so long as it was part of the Methodist Church, and accordingly it was transferred for that purpose to the State of Kansas and became the State University.

We submit that the authority cited by the Government supports our position, not the Government's. We add only that if all the beneficiaries of the Higher Education Facilities Act as interpreted and applied by the Department of Health, Education and Welfare were as "church-related" as Kansas State University, we would not be in court today.

Respectfully submitted,

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February, 1971

APPENDIX

APPENDIX

Profiles of Defendant Colleges

1. *Annhurst College*

Annhurst College is a Catholic liberal arts college for women, operated under the auspices of the Order of the Sisters of the Holy Ghost, a Catholic order. It was founded in 1941 with the approval of the Catholic Bishop of Connecticut and was incorporated in 1943 by a Special Act of the Connecticut General Assembly which stated works of religion among its purposes and for property to be held by the corporation as trustee in behalf and for the benefit of the members of the religious community residing within the institution. Its original facilities were constructed with funds provided by the Order.

The Board of Trustees, the designated governing body, is entirely under the effective control of the Order. Its officers are four in number and are such by virtue of their official positions in the Order. Until very recently, there were also four appointed members, who were also required to be members of the Order. In 1967, and again in 1969 (after the operative date of the grant challenged in this action), the By-laws were amended to enlarge the number of appointed members and permit nonmembers of the Order, so that two Catholic laymen have been added; but even after these amendments, *all* members must be appointed annually by the Provincial Superior, who is the Chairman of the Board of Trustees *ex officio*. All five officers of administration are members of the Order, as are almost one-half of the faculty; all such faculty mem-

bers, including the President, were assigned to Annhurst by the Provincial Superior and all are subject to reassignment elsewhere by her at any time. Some fifteen of the approximately twenty-five lay members of the faculty are Catholics. It is affiliated with the National Catholic Education Association.

Of the four hundred students, about three hundred and eighty, or 95%, are Catholics. The application form for admission asks for the religion not only of the student but of both parents. Catholic student organizations are prominent on the campus, and the two honor societies are both Catholic. The students consider that theirs is a Catholic student body and that theirs is a Catholic campus. Included in the student body are about a dozen novices and five Sisters of the Order, which provides their education so that they will become teaching members of institutions operated by the Order.

The Board of Trustees cannot issue notes or bonds, or sell any of Annhurst's assets, except with the written approval of the Provincial Superior. If the corporation is dissolved, its assets will be transferred to the Order for its charitable purposes, presumably including facilities constructed with the assistance of public funds.

The college has a Catholic chapel, located in one of the dormitories, and a Catholic chaplain, but no Protestant or Jewish chapel or chaplain. Students are urged, although not required, to attend daily Mass, and a closed retreat is provided for all students once a year. Six Catholic feast days are celebrated each year on campus, one being required for all Catholic students at the beginning of each academic year. All classrooms and all bedrooms have crucifixes, and there are other Catholic religious symbols and statues on the campus. Priests on the faculty start

their classes with a prayer, although this is not compulsory. Nuns and Priests wear the habit of their Order or clerical garb on campus. Four three-credit courses in Theology are required for graduation, three compulsory and one elective, and of the seven Theology courses offered in the curriculum, six have a primarily Catholic content. The Theology faculty consists entirely of two Priests. The head of the Philosophy Department is a Sister of the Order, and one of the other two faculty members is a Priest. Significantly, of four witnesses produced by Annhurst, not one was on the Theology or Philosophy faculty, even though they had been listed as prospective witnesses by counsel. Faculty members are not free to disseminate doctrines

> subversive of the basic principles of American freedom and government or of the aims and purposes of the College as a Catholic institution . . . .

Annhurst's student handbook lists some five nearby Catholic churches, but no Protestant churches or Jewish synagogues. Its solicitation for funds and flyers are couched in terms of its being Catholic. It has the image of a Catholic institution.

2. *Albert Magnus College*

The College was founded by the Dominican Sisters in 1925 with the "approval of" the Archbishop of Hartford, and named for St. Albert the Great, a renowned Dominican teacher. The College Seal contains the seal of the Dominican Order. In January, 1965 the College applied for a Federal grant for two language laboratories which was approved on June 22, 1966.

As of that date, it was a liberal arts college, having a student body of about 600 women, whose program was "directed and unified by the Catholic philosophy of education" and with a religious program aimed at integrating the spiritual life of students with their social and academic activities.

The Administration consisted of a Board of Trustees and the Officers. All the Trustees were required to be, and were in fact, Dominican Sisters. The President, Secretary, Treasurer, Dean of the College and Dean of Students, were required to be, and in fact were, Dominican Sisters. The Librarian and Prioress were also Dominican Sisters. All members of the Order holding Administrative posts were assigned to the College by the Mother General of the Order in Columbus, Ohio, and could have been reassigned by the Mother General. The Honorary Chairman of the Advisory Board was traditionally the Archbishop of Hartford.

More than one-third of the faculty of approximately sixty were either Dominican Sisters or priests. Dominican faculty members were assigned to the College by the Order. Final authority to select faculty was exercised by the President, and application forms inquired as to the applicant's religion, although this question has now been pasted over. All faculty members—even non-Catholics—were expected to open classes with a prayer and the President herself testified that she did so. The constitution of the college forbade faculty members from disseminating views "subversive to the aims of the College as a Catholic institution."

The student body was estimated by the President as being 80 to 90 percent Catholic and virtually all newspapers and journals in which the College advertised were Catholic publications.

The College Parish Council, consisting of two students from each class, coordinated all religious affairs for students.

The College is a member of the National Catholic Educational Association and is affiliated with the Catholic University of America. Honor students were eligible for election to Kappa Gamma Pi, the national scholarship society for Catholic women's colleges. Fund raising letters referred to the college as a Catholic institution.

All Catholic students were required to take specified courses in Biblical Theology and Systematic Catholic Theology and to participate in an annual Retreat. The Constitution itself stated that the basis of the curriculum was "theology and scholastic philosophy intended to instill Catholic ideals." Four of the nine courses offered in Religious Studies were identifiable as Catholic in content.

The College maintained two separate chapels on Campus, both Roman Catholic, for use by the students, in addition to an offertory and altar in one of the residential halls. Confessions were held daily and Masses celebrated each noon and afternoon. The Rosary was recited daily in the dormitories as the "common evening prayer". The Catalogue listed such campus student units as The Confraternity of Christian Doctrine—providing opportunities for Catholic action and development of Catholic leadership, and the Third Order of St. Dominic—for association with the spiritual and apostolic work of the Dominican Order throughout the world. Special observances were noted of the feasts of our Blessed Mother and of the Dominican Saints, and Holidays observed by no classes include specifically Roman Catholic observances such as Feast of All Saints, Feast of St. Albert, Feast of Immaculate Conception, Feast of St. Thomas Aquinas and Ascension Thursday. The opening day of classes was marked officially by "Opening Mass of the Holy Spirit" which all students were

urged to attend. The official College Chaplain was a Catholic Priest and as of June, 1966 no non-Catholic cleric was listed in the Catalogue.

Most of the college buildings are named for Catholic religious personalities or concepts. Aquinas Hall, the new building in which the language laboratories are located, had a Cross on the exterior as well as a crucifix and a religious painting in the foyer. Rosary Hall which houses the College library and a student cafeteria, had a Cross on the external facade. Some classrooms contained crucifixes on the wall. Clerical members of the faculty customarily wore their religious garb when teaching classes.

3. *Fairfield University*

Fairfield University is an academic institution whose primary objective is the development of the creative intellectual potential of its students "in a context of religious commitment." This it does by providing *inter alia,* "an institutional Catholic Commitment as a way of life." It is a religiously committed University. It has a commitment to the basic beliefs of the Catholic Church, and it is concerned with preparing the student for a reasoned approach to his obligations as a Church member. Its general purposes are in large part derived from the traditional Jesuit approach to education shared with the other 28 Jesuit colleges in the United States. One of the Jesuit objectives is that teachers shall take a personal interest in students and know them individually.

Fairfield's ultimate governing authority is vested in a Corporation, which consists only of members of the Society of Jesus. They have a more than ordinary knowledge of its practices and actual happenings and a deep personal

concern for its outcomes. The Very Reverend William C. McInnis is president of the Corporation and the religious superior of Jesuits at Fairfield. Nearly all of the administration and staff are Jesuits or lay Catholics. The ratio of lay faculty to Jesuit is about two to one, but over 80% of faculty with tenure are either Jesuits or have received higher education at Catholic institutions, and the predominance of lay faculty were educated at Catholic institutions. While it subscribes to a 1940 Statement of Principles of Academic Freedom, faculty cannot undermine the basis of its Catholic commitment. No professor is expected to promote any doctrine in clear and direct violation of common Catholic teaching, and each recognizes by contract his liability to termination for any grave offense against Catholic doctrine or morality. Over 95% of undergraduates are Catholics.

In 1941 the Society of Jesus of New England purchased land in Fairfield to establish a college based on Christian faith and philosophy. In May 1945, Fairfield University of Saint Robert Bellarmine, Incorporated, was chartered, with its assets to go to the Society of Jesus or the bishop of the Roman Catholic diocese of Hartford in the event of dissolution. The Jesuits at Fairfield contribute services to it, on its financial statements, by means of entries calculating appropriate faculty salaries and deducting their maintenance costs.

In its Liberal Arts program, Fairfield emphasizes for all students a clear knowledge of ultimate religious, philosophical and moral values through systematic courses in philosophy and theology. It is a member of the Jesuit Educational Association, which *inter alia* furthers the aims of Catholic education and effectively presents the Catholic

philosophy of life. Its faculty is affiliated with several Jesuit and Catholic learned Societies.

Religion plays an important role in the program of this Jesuit college. Attitudes and values which may be communicated by the faculty both by word and example reflect the University's belief in a philosophy and theology based on Catholic principles. It believes that sound moral and ethical values are necessary contributions to the good of the person, State, and Church. To develop appropriate attitudes and values in its Catholic students, there is encouragement of attendance at mass, spiritual consultation, common prayer and annual retreats. Special efforts are made to provide a meaningful counseling dimension to the work of the Jesuit Fathers who are prefects in the dormitories.

Many classes begin and end with a prayer. Many classrooms contain religious symbols, as does the prominent facade of a major building. Many buildings bear the names of great Jesuits—mainly Saints. Several holyday holidays are observed. Above the University's name in the catalogue appears Ad Maioren Dei Gloriam—for the Greater Glory of God, a Jesuit motto. The seal with many religious indicia is prominent on the Catalogue, brochures, and the student handbook, where it is fully described.

Catholic students are required to take two basic and two elective courses in the Department of Theology. The two basic courses are entitled "The Scriptures as the Word of God" and "The Church of Christ as the People of God," and virtually all theology courses are described in terms of Catholic dogma, scripture, morality or liturgy. Theology instruction is central to the total objective of Catholic education, is to make the student aware that his faith is not merely a creed but a culture whose influence extends

throughout his life, and is designed to give him a more fully intelligent possession of Catholic truth and a keener vision of the Christian ideal of life. The Theology Department consists of seven Jesuits and two lay Catholic instructors.

There is a spiritual life committee of faculty and students designed to assist the growth of religious attitudes and values on campus. There are two extracurricular student spiritual groups, and in one, the Apostleship of Prayer, all Catholic students are encouraged to enroll and 80% of Fairfield's graduates are registered. There are other Catholic community and academic groups.

4. *Sacred Heart University*

The special act which defined the corporate powers of the university at the time of grant provided that the purpose of the corporation, *inter alia,* was to perform works of religion. A purpose of Sacred Heart University according to the catalog issued at the time of the grant was "Moral and spiritual growth through formal instruction, planned programs in practice and experience in worship." The source of the school's objectives is the philosophy of Catholic education in twentieth century America.

The Board of Trustees of the University is a self-perpetuating board. The institution was opened by five incorporators, who were James Kerr, Donald McGannon, Bishop Curtis, James Devine and John McGough. Of the five initial incorporators, three were members of the diocesan hierarchy. All of the incorporators were appointed by the Bishop of the Bridgeport diocese. The other two are not clerics but have been awarded the Knight of St. Gregory by the Bishop who bestows this award on promi-

nent Catholic laymen. The Bishop was the Chairman of the Board of Trustees.

Dr. William H. Conley, who has been the President of the Sacred Heart University since it opened in 1963, had taught at or administered or studied Catholic educational institutions for approximately 32 years at the time of the grant. The entire administration at the time of the grant was Roman Catholic.

The only full-time chaplain on the campus is a diocesan priest appointed by the Bishop who does no teaching. There is no Protestant chaplain now and the University has never had one. The school records concerning the faculty at the time of the grant showed only four that did not identify themselves as Catholic or Roman Catholic. Two of these four were recorded as Jewish, one Greek Orthodox and one left a blank in the space provided.

The only allowed evidence as to the religious orientation of the students is that the student body is currently about 80% Roman Catholic. The University seeks and obtains students by advertising in two Catholic publications, *America* and *Commonweal*. These advertisements are joint with eleven other "diocesan colleges". Certain members of the student body are members of religious orders or seminarians. Such students are ostensibly required to pay tuition but in fact are invariably given a scholarship covering all tuition fees.

The Special Act which incorporated the University provided that, in the event of dissolution of the corporation, all remaining assets should vest in the Bridgeport Roman Catholic Diocesan Corporation. The incorporators included the Bishop of the Bridgeport Diocese who was and is the Chairman of the Board of Directors.

The history of Sacred Heart shows that Bishop Curtis of the Bridgeport Diocese "directed" that the new diocesan college be lay operated and was "insistent" that the school be named "Sacred Heart". The University leased most of its land and only buildings not funded by the Federal Government from the Diocese of Bridgeport at an annual rental of one dollar for each of the first ten years. Later Sacred Heart University purchased land from the Diocese of Bridgeport on which to construct the library here involved in controversy. Sacred Heart University borrowed money on a note from the Diocese of Bridgeport to make the necessary changes in the high school laboratories in the main building, and to make its initial payment for books. The total obligation of Sacred Heart University to the Diocese in February 1967 is unknown; however, Sacred Heart University's obligation to the Diocese is $347,572. No interest is paid to the Diocese on this obligation.

The curriculum offered to the first group of Sacred Heart students in the fall of 1963 was one whose outlines were very similar to those which, more fully developed, were to appear later. The degree requirement was 131 credits of which 8 were required to be in Theology and 12 were required in philosophy. The catalog issued in February 1967 specified as required subjects: "Biblical Theology I: Old Testament"; "Biblical Theology II: New Testament"; "Systematic Theology I: Dogmatic Questions"; and "Systematic Theology II: Moral Questions". No comparable courses are required of every graduate at traditionally secular colleges.

At least some of the classrooms are still equipped with crucifixes and other religious objects on the walls which

have remained since the inception of the University. In each case they are readily removable but there has been no conscious effort to remove them from the classrooms. Each Sacred Heart teacher or librarian called by the defendants indicated there were crucifixes and/or fonts in their classrooms in February 1967. At the time of the grant by the Federal Government, the original library had crucifixes in various rooms which it then occupied. The librarian could not recall seeing comparable symbols at the University of Wisconsin which was the only non-church related college or university he had ever attended.

During the academic year in which the challenged grant was made, the University observed, by not holding classes, the following holy days in addition to Easter and Christmas: All Saints Day, Feast of the Immaculate Conception and Ascension Thursday and specified Thursday, September 7, and Friday, September 8, for a Freshman Retreat. Conversely, the University did hold classes on Monday, July 4, 1966, in accordance with a directive from the office of the Dean to Faculty Members.

Other spiritual opportunities offered are Stations of the Cross, Confessions, Bible Vigil, and the opportunity to deliver homilies. Father McDermott also offers daily Mass over WSHU-FM for shut-ins of the Diocese of Bridgeport.

Confessions are heard before Mass and at any time in the chaplain's office. Students give the Lenten Bible Vigils and participate in the various services offered daily. Voluntary closed retreats and days of recollection are arranged through the chaplain during the Spring semester of each academic year. The Musiturgy Club is engaged in promoting the desires of Vatican II with regard to the liturgical movement. Its purpose is to promote congregational singing in area churches.

Conversely, the University has never had a Protestant Chaplain or Chapel.

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Vide No. 89 for Motion and Brief of Conn. State Conference of Branches of NAACP, et al.